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Sunset Review  
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DATE: January 31, 2013

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Second  
Sunset Review of the Antidumping Duty Order on Welded Large  
Diameter Line Pipe from Japan

### SUMMARY

We have analyzed the substantive response of domestic interested parties in the expedited second sunset review of the antidumping duty order covering welded large diameter line pipe ("line pipe") from Japan. We recommend that for our expedited final results you approve the positions we have developed in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this expedited sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

### HISTORY OF THE ORDER

On December 6, 2001, the Department of Commerce ("the Department") published an antidumping duty order in the *Federal Register* with respect to imports of line pipe from Japan at the following rates, which were based on adverse facts available, using the highest rate contained in the petition:<sup>1</sup>

Nippon Steel Corporation	30.80
Kawasaki Steel Corporation	30.80
All Japanese Manufacturers and Exporters	30.80

<sup>1</sup> See *Antidumping Duty Order: Welded Large Diameter Line Pipe From Japan*, 66 FR 63368 (December 6, 2001).



The Department received a substantive response from domestic interested parties (ACIPCO, Berg Steel Pipe Company, Dura-Bond Pipe LLC, Stupp Corporation, U.S. Steel and Welspun Tubular LLC USA), within the deadline specified in 19 CFR 351.218(d)(3)(i).<sup>10</sup> The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. The Department did not receive substantive responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department has conducted an expedited sunset review of the order.<sup>11</sup>

## SCOPE OF THE ORDER

The product covered by the antidumping duty order is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stenciled. This product is normally produced according to American Petroleum Institute (“API”) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. Specifically not included within the scope of the order is American Water Works Association (“AWWA”) specification water and sewage pipe and the following size/grade combinations of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X80 or greater.

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<sup>10</sup> See Letter from domestic interested parties to the Secretary of Commerce, dated October 31, 2012 (“Substantive Response”).

<sup>11</sup> As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the final results of this sunset review is now January 31, 2012. See Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Hurricane,” dated October 31, 2012.

- In API grades X80 or above, having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.90 inch or more.
- In API grades X100 or above, having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.54 inch or more.
- An API grade X80 having an outside diameter of 21 inches and wall thickness of 0.625 inch or more.

The product currently is classified under U.S. Harmonized Tariff Schedule (“HTSUS”) item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30, 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

## DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, the Department has conducted this second sunset review to determine whether revocation of the antidumping duty order would likely lead to the continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the period before and the periods after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the order is revoked. Below we address the comments of the interested parties. Consistent with our implementation under section 123 of the Uruguay Round Agreements Act (“URAA”), in this sunset review we have not relied on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (“WTO”)-inconsistent.<sup>12</sup>

### 1. Likelihood of Continuation or Recurrence of Dumping

#### Interested Party Comments

The domestic interested parties believe that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping by the Japanese manufacturers, producers, and exporters of the subject merchandise due to continued dumping and decreased import volumes since issuance of the order and the previous sunset reviews.<sup>13</sup> The domestic interested parties contend that the dumping margins remain at above *de minimis* levels for all manufacturers, producers, and exporters of the subject merchandise, as described below.

Domestic interested parties argue that dumping of line pipe from Japan is likely to continue or recur if the order is revoked. According to domestic interested parties, since the completion of the first sunset review, import volumes of the subject merchandise continue to be below the

<sup>12</sup> See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (“*Final Modification for Reviews*”).

<sup>13</sup> See Substantive Response at 3.

import volumes that existed prior to the imposition of the order.<sup>14</sup> Domestic parties further state that the 30.80 percent dumping margin in the original investigation, which is in effect for all Japanese producers/exporters of subject merchandise, continues to protect the U.S. industry from dumped product.<sup>15</sup>

Regarding import volumes, domestic interested parties state that imports have dropped from 219,420 metric tons in 2000 to levels as low as 57,602 tons in 2010.<sup>16</sup> Domestic interested parties state that it is believed that much of the post-order imports are of extra heavy walled product, which was excluded from the scope.<sup>17</sup> Domestic interested parties maintain that the decrease in imports of subject merchandise following the publication of the order indicates a strong likelihood of recurrence of dumping should the antidumping order be revoked. Additionally, according to domestic interested parties, the effect of such dumping would be injury to the domestic industry.<sup>18</sup> Therefore, domestic interested parties conclude that the antidumping order for line pipe from Japan should not be revoked.

#### Department's Position and Analysis

Consistent with the guidance provided in the legislative history accompanying the URAA, specifically the Statement of Administrative Action ("SAA"), H.R. Doc. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) ("House Report"), and the Senate Report, S. Rep. No. 103-412 (1994) ("Senate Report"), the Department's determinations of likelihood will be made on an order-wide basis.<sup>19</sup> In addition, the Department normally will determine that revocation of an order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.<sup>20</sup> In addition, pursuant to section 752(c)(1)(B) of the Act, the Department will consider the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

Pursuant to section 752(c)(1)(B) of the Act, the Department considered the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order. Using import trade statistics from the Global Trade Atlas ("GTA"), the Department compared import volumes for the period before and after the period following the imposition of the antidumping duty order. See Memorandum to the File from John Drury, Case Analyst, through Angelica L. Mendoza, Program Manager, regarding "Import Volumes for the Final Results of Expedited Five-Year ('Sunset') Review of the Antidumping Duty Order on Certain Welded Large Diameter Line Pipe from Japan," dated January 31, 2013 ("Import Volumes Memo").

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.* at 3.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 4-5.

<sup>19</sup> See SAA at 879 and House Report at 56.

<sup>20</sup> See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

The Department has not conducted any reviews of the antidumping duty order on line pipe from Japan. Cash deposit rates above *de minimis* remain in effect for all imports of line pipe from Japan, and no respondent interested party has sought to change these rates by requesting an administrative review. As discussed in section II.A.3 of the *Department's Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998), and the SAA at 890, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. Dumping margins presently remain in place for producers and exporters of welded large diameter pipe from Japan and, therefore, dumping margins above *de minimis* levels continue to exist for shipments of the subject merchandise from all Japanese producers and exporters of the subject merchandise.

Consistent with section 752(c) of the Act, the Department also considered the import volumes before and after issuance of the order. *See* Import Volumes Memo. Using statistics provided by the GTA, the Department finds that import quantities of welded large diameter pipe from Japan prior to imposition of the antidumping duty order totaled 166,889 short tons in 1999, and 219,420 short tons in 2000. *See* Import Volumes Memo at Attachment I: entry quantities excel chart. In contrast, import volumes during the current sunset period are as small as 57,602 short tons in 2010, with the largest being only 171,445 short tons in 2006. *Id.* The average import volume for the sunset period 2006 through 2011 is 121,929 short tons, a 44 percent decrease from the import volume level in 2000 of 219,420 short tons, prior to imposition of the antidumping duty order in 2001. *Id.* The Department notes that the U.S. Harmonized Tariff Schedule ("HTSUS") categories for line pipe from Japan do not segregate between merchandise that is included in the scope and merchandise that was excluded from the scope. Therefore, the import data is likely comprised, in part, of non-subject merchandise. The Department finds, however, that the HTSUS information is relevant for purposes of comparing import volumes before and after the issuance of the order because the comparison of HTSUS data before and after the issuance of the order is an apples-to-apples comparison in terms of the types of products being compared. This factor allows the Department to make a reasonable extrapolation with respect to whether import volumes of subject merchandise have increased or decreased since the issuance of the order. Based upon the data, as noted above, the average import statistics demonstrate that import volumes of the merchandise from Japan within the relevant HTSUS categories have significantly declined since the imposition of the order. The Department finds that this information supports the conclusion of a significant decline in the volume of the subject merchandise over the same time period.

Based on these analyses of the dumping margin and import volumes pertaining to the subject merchandise, the Department determines that dumping is likely to continue if the order were revoked.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

The domestic interested parties argue that, in accordance with the legislative history and the Department's normal practice, the Department should find the magnitude of the margin of dumping to be equal to the rates determined to exist in the original investigation.<sup>21</sup>

### Department's Position and Analysis

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Normally, the Department will select the weighted-average dumping margins from the final determination of the investigation.<sup>22</sup> For companies not investigated specifically, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a rate based on the "all others" rate from the investigation.<sup>23</sup> The Department's preference for selecting a rate from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.<sup>24</sup> Under certain circumstances, however, the Department may select a more recently calculated weighted-average dumping margin to report to the ITC.<sup>25</sup>

The Department has not conducted a review of the order on line pipe from Japan since the completion of the investigation. The Department continues to find that the margins of dumping in the original investigation are probative of the behavior of all Japanese producers and exporters because these are the only rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Moreover, the rates determined in the original investigation of line pipe from Japan were from the petition,<sup>26</sup> and, as such, did not contain negative margins and were not affected by offsets/zeroing. Thus, the use of these rates is

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<sup>21</sup> The domestic interested parties cite specifically to the *Department's Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998), which states that the Department will "{normally} select a margin from the investigation, because that is the only calculated rate that reflects the behavior of exporters...without the discipline of an order or suspension agreement in place." See Substantive Response at 4.

<sup>22</sup> See *Eveready Battery Co. v. United States*, 77 F. Supp. 2d 1327, 1333 n. 9 (CIT 1999).

<sup>23</sup> See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>24</sup> *Id.*

<sup>25</sup> See *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3. See also *Potassium Permanganate from The People's Republic of China: Five-year ("Sunset") Review of Antidumping Duty Order; Final Results*, 70 FR 24520 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>26</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany*, 60 FR 31974, 31979 (June 19, 1995).



in accordance with the *Final Modification for Reviews*. Finally, no party has argued for the use of a more recent rate as the magnitude of dumping likely to prevail if the order were revoked.

Thus, the Department finds that the rates from the original investigation are the appropriate margins to report to the ITC. Consistent with section 752(c) of the Act, the Department will report to the ITC the company-specific and “all-others” rates from the investigation as indicated in the “Final Results of Review” section of this memorandum below.

#### FINAL RESULTS OF REVIEW

As a result of this review, the Department determines that revocation of the antidumping duty order of line pipe from Japan would be likely to lead to continuation or recurrence of dumping, and that the magnitude of dumping likely to prevail, if the order would be revoked, would be 30.80 percent for Nippon Steel Corporation, Kawasaki Steel Corporation, and for all other Japanese manufacturers and exporters of subject merchandise.

Our reliance on this rate for reporting both the likelihood of dumping to continue or recur, and the magnitude of the dumping margin likely to prevail, is consistent with our *Final Modification for Reviews*, because we are relying on past rates determined on the basis of total adverse facts available and not in a manner found to be WTO-inconsistent.

#### RECOMMENDATION

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this sunset review in the *Federal Register*, and notify the ITC of our determination.

AGREE ✓

DISAGREE \_\_\_\_\_

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Import Administration

31 JANUARY 2013  
Date